

REMARKS

Reconsideration is respectfully requested of the Office position set forth in the Final Rejection dated February 24, 2003, Interview Summary dated April 23, 2003 and Advisory Action dated May 8, 2003. The present amendment is being filed pursuant to a Request for Continued Examination (RCE) under 37 CFR 1.114.

In the present amendment claim 1 has been amended, and claim 12 is newly added. Antecedent support for new wording of claim 1 is present on page 6, lines 19 to 21 and for claim 12 is present on page 7, line 3. Claims 1 to 9 and 12 are under consideration in this amendment.

In the Interview Summary dated April 24, 2003, a requirement was set forth that a formal reply to the last Office action must include the substance of the interview. It is considered that applicants' Request For Reconsideration filed 29 April 2003 satisfied this requirement.

It is noted in the Advisory Action dated May 8, 2003 that the following is set forth:

Applicant argues that "Barnett does not cross section and, therefore, cannot obtain cross sections being exposed on a surface of a material". However, in Barnett, Figure 1 shows a sectional view of the decorative object and this clearly shows that Barnett does cross section.

Furthermore, Applicant states that "Barnett is not capable of forming different cross sections of the same swirl". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., forming different cross sections of the same swirl") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In reply to the above statement, it is respectfully pointed out that both the final rejection and Advisory Office Action are incorrect interpretations of previous claim 1.

For clarity in understanding applicants' position of the reasons why the Office interpretation is incorrect, it may be helpful for the Examiner's benefit to focus initially on one geometric shape, namely a "swirl". If dependent claim 5 (rejected under 35 USC 102 as fully anticipated) were rewritten in independent form, the following claim would result (deletions shown with a line through; insertions are underlined).

A decorative material comprising geometric patterns on a surface thereof wherein the geometric patterns are formed from at least two contrasting thermoset compositions:

- (a) wherein the geometric patterns are three dimensional comprising at least one ~~geometric shape~~ swirl and extend inwardly from a surface of the material, and
- (b) wherein the visual appearance of the geometric patterns vary due to different cross sections of the ~~geometric shape~~ swirl of (a) being exposed on the surface of the material.

It is emphasized in part (b) above that the wording “different cross sections of the swirl of (a)” is present. The term “the swirl” is employed in the singular. Therefore, “different cross sections of the swirl of (a)” denotes forming “different cross sections of the same swirl”. Yet, in both the Final Rejection and the Advisory Office Action, the Office wording is:

it is noted that the features upon which applicant relies (i.e., forming different cross sections of the same swirl”) are not recited in the rejected claim(s).

For the above stated reasons, the Office position is incorrect. In similar fashion for the explanation provided for dependent claim 5 directed to the species, “swirl”, independent and generic claim 1 directed to “at least one generic shape” and “the generic shape of (a)” differentiates from the Office’s interpretation as within the disclosure of Barnett USP 5,820,799.

To further prosecution of this patent application in order to obtain an early allowance, claim 1 has been further amended in part (a) wherein at least one geometric shape is “divided into discrete portions resulting in cross sections of the one geometric shape having varying surface appearances”. This wording has been employed based on antecedent support on page 7, lines 19 to 21 of the body of the specification. Also, claim 1, part (b) has been amended by insertion of “one” which is redundant since the wording of “the geometric shape” and “the one geometric shape” has the same meaning.

Claims 1, 2 and 4 to 9 stand rejected under 35 USC 102(b) as anticipated by Barnett USP 5,820,799. The above remarks concerning a correct interpretation of claim 1 is believed to directly respond to this grounds of rejection. Barnett does not employ a geometric shape divided into individual discrete portions resulting in cross sections. Accordingly, reconsideration and removal of this grounds of rejection is submitted to be proper.

Claim 3 stands rejected under 35 USC 103(a) based on Barnett USP 5,820,799 in view of Takahashi et al. USP 6,428,875. In response, claim 3 represents a patentable advance in

the art for the same reasons as parent claim 1. Additionally, the combination of the two publications is improper. Takahashi et al. on column 6, lines 40 to 43 (cited in the Office action) does disclose stripes; however, the formation is by printing. Attention is respectfully directed to the immediately preceding paragraph prior to column 6, lines 40 to 43 (namely, on lines 37 to 39) which states:


The pattern layer 4 is a primary means to impart decorative properties to the substrate 2. This layer is obtained by printing various patterns using ink and a printing machine.

Use of ink and a printing machine is not combinable with the disclosure of Barnett directed to casting two different resins. Two different, non-analogous technologies are present. Reconsideration and removal of the grounds of rejection is requested.

Dependent claim 12 represents a patentable advance since Barnett USP 5,820,799 does not disclose or render obvious the requirement for fusion.

In summary, claim 1, the sole independent claim, has been amended to obtain an early allowance. Reasons have been provided why previous claim 1 represents a patentable advance in the art. A notice of allowance is solicited.

Respectfully submitted,



ANDREW G. GOLIAN
ATTORNEY FOR APPLICANTS
Registration No.: 25,293
Telephone: (302) 892-0747
Facsimile: (302) 892-7343

Dated: May 29, 2003